

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

OFFSHORE SPECIALTY
FABRICATORS, LLC,

DEBTOR.

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Case No. 17-35623

Chapter 11

LIQUIDATING TRUSTEE'S FIRST OMNIBUS OBJECTION TO
SECURED AND PRIORITY PROOFS OF CLAIM THAT HAVE BEEN SATISFIED IN
WHOLE OR IN PART [PROOF OF CLAIM NOS. 19, 23, 24, 30, 31, 33-50, 52, 53-55, 57 60-
64, 66, 68, 73, 78, 83, 92, 112, AND 136]

THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTY IS ASKING THE COURT TO DISALLOW AND EXPUNGE THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE OBJECTING PARTY WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A RESPONSE WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED WITHOUT A HEARING.

THIS OBJECTION SEEKS TO DISALLOW AND EXPUNGE CERTAIN PROOFS OF CLAIM. CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS IN THE TABLE STARTING ON THE NEXT PAGE OF THIS OBJECTION.

A HEARING HAS BEEN SET ON THIS MATTER ON JULY 17, 2019 AT 10:00 A.M. IN COURTROOM 404, U.S. COURTHOUSE, 515 RUSK AVENUE, HOUSTON, TEXAS 77002.

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

David Weinhover, the Liquidating Trustee (the "Liquidating Trustee") of the Offshore Specialty Fabricators, LLC Liquidating Trust (the "Liquidating Trust"), files this Omnibus Objection to Proofs of Claim Nos. 19, 23, 24, 30, 31, 33-50, 52, 53-55, 57 60-64, 66, 68, 73, 78, 83, 92, 112,

and 136 (the “Objection”) on the grounds that they have been satisfied in full or in part and respectfully states as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This Objection is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are §§ 105(a) and 502(b) of title 11 of chapter 11 of the United States Code, (the “Bankruptcy Code”), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 3007-1 of the Bankruptcy Local Rules for the southern District of Texas.

LIST OF CLAIMS TO WHICH OBJECTION APPLIES

4. Claimants receiving this objection should locate their names and claim numbers in the table below (the “Table”). The Table lists proofs of claim in alphabetical order by claimant name and includes the claim numbers.

Creditor Name	No .	Date Filed	Total Payment on Claim	Type of Claim	Unsecured Portion of Claim(s), if Any	Total Amount of Claim(s)	Unsecured Portion of Claim(s) Remaining	Grounds for Objection
Alliance Special Ventures Fund	49	12/1/2017	\$215,954.78	Secured	\$50,213.99	\$320,507.77	\$104,552.99	See page 6
Bayou Black Electric Supply	33	11/28/2017	\$98,746.64	Secured	\$-	\$98,746.64	\$-	See page 6
BNA Marine Services	31	11/28/2017	\$2,947.54	Secured	\$20,143.36	\$23,090.90	\$20,143.36	See page 6
Breaux Petroleum Products	73	12/5/2017	\$10,178.80	Secured	\$-	\$11,822.77	\$1,643.97	See page 6

C&G Welding	38	11/30/2017	\$165,413.00	Secured	\$-	\$165,413.00	\$-	See page 6
C&G Welding	39	11/30/2017	\$156,921.00	Secured	\$-	183,654.00	\$26,733.00	See page 6
Conrad Shipyard	78	12/8/2017	\$504,666.89	Secured	\$-	\$504,666.89	\$-	See page 6
Crosby Tugs LLC	55	12/4/2017	\$929,174.50	Secured	\$103,920.62	\$1,033,086.12	\$103,920.62	See page 6
Crosby Tugs LLC	57	12/4/2017	\$1,059,203.50	Secured	\$113,699.80	\$1,172,903.30	\$113,699.80	See page 6
Crossmar Inc.	37	11/29/2017	\$7,800.00	Secured	\$-	\$7,800.00	\$-	See page 6
DeepCor Marine	68	12/18/2017	\$1,280,000	Secured	\$-	\$1,562,261.17	\$-	See page 7
Delta Rigging & Tools	36	11/28/2017	\$26,163.83	Secured	\$-	\$26,163.83	\$-	See page 6
Demex International	30	11/22/2017	\$84,221.00	Secured	\$-	\$84,221.00	\$-	See page 6
DHD Offshore Services	45	2/5/2018	\$151,139.46	Secured	\$-	\$151,139.46	\$-	See page 6
DHD Offshore Services	46	12/1/2017	\$8,282.00	Secured	\$-	\$8,282.00	\$-	See page 6
Encore Food Services	44	12/1/2017	\$45,831.09	Secured	\$-	\$45,831.09	\$-	See page 6
Era Helicopters LLC	60	12/5/2017	\$65,308.08	Secured	\$-	\$65,308.08	\$-	See page 6
Express Supply & Steel	66	12/5/2017	\$22,451.40	Secured	\$-	\$24,096.12	\$1,644.72	See page 6

Fugro USA Marine	23	11/17/2017	\$53,729.60	Secured	\$-	\$53,729.60	\$-	See page 6
Fugro USA Marine	24	11/17/2017	\$124,145.48	Secured	\$-	\$124,145.48	\$-	See page 6
Gator Rigging Inspection	54	12/4/2017	\$46,179.96	Secured	\$-	\$53,836.98	\$7,657.02	See page 6
Hardy, Scott	112	2/5/2018	\$5,778.34	Priority	\$5,778.34	\$5,778.34	\$-	See page 7
Hercules Wire Rope & Sling	63	12/5/2017	\$159,784.00	Secured	\$-	\$254,620.37	\$94,836.37	See page 6
Hercules Wire Rope & Sling	64	12/5/2017	\$31,708.29	Secured	\$-	\$45,749.24	\$14,040.95	See page 6
Industrial Welding Supply of Houma	61	12/5/2017	\$27,891.50	Secured	\$-	\$69,491.41	\$41,599.91	See page 6
Industrial Welding Supply of Houma	62	12/5/2017	\$31,394.85	Secured	\$-	\$84,933.95	\$53,539.10	See page 6
MARMAC LLC	50	12/4/2017	\$563,169.50	Secured	\$20,529.84	\$729,283.24	\$166,113.74	See page 6
Moorman, Ed and Angie	83	12/28/2017	\$23,187.23	Priority	\$23,187.23	\$23,187.23	\$-	See page 7
Morgan City Rentals	35	11/28/2017	\$50,089.93	Secured	\$-	\$50,089.93	\$-	See page 6
Morgan City Supply	42	11/30/2017	\$58,634.80	Secured	\$-	\$63,638.80	\$ 5,004.00	See page 6
Oil States Skagit SMATCO	40	11/30/2017	\$37,500.00	Secured	\$-	\$58,082.33	\$20,582.33	See page 6

Oil States Skagit SMATCO	41	11/30/2017	\$37,500.00	Secured	\$-	\$46,418.26	\$8,918.26	See page 6
Positerry, Kerrel J.	92	1/26/2018	\$12,003.20	Priority	\$12,003.20	\$12,003.20	\$-	See page 7
Scott, David & Whitney	136	2/7/2018	\$55,142.93	Priority	\$55,142.93	\$55,142.93	\$-	See page 7
Smith Marine Towing Co.	19	11/13/2017	\$64,000.00	Secured	\$-	\$86,076.25	\$22,076.25	See page 6
Spartan Acquisition	34	11/28/2017	\$51,713.72	Secured	\$-	\$51,713.72	\$-	See page 6
Versabar Inc.	52	12/4/2017	\$197,056.20	Secured	\$-	\$218,567.39	\$21,511.19	See page 6
Versabar Inc.	53	12/4/2017	\$59,506.69	Secured	\$-	\$65,887.43	\$6,380.74	See page 6
Viral Investment LLC	47	2/5/2018	\$235,983.25	Secured	\$-	\$235,983.25	\$-	See page 6
Viral Investment LLC	48	12/1/2017	\$43,474.72	Secured	\$-	\$43,474.72	\$-	See page 6
Work Boat Electrical Services	43	11/30/2017	\$56,896.21	Secured	\$-	\$56,896.21	\$-	See page 6

RELIEF REQUESTED

5. The Trustee seeks entry of an order (i) expunging the claims that have been satisfied in full; and (ii) allowing the claims not satisfied in full on an unsecured basis in the amounts listed in the table above.

FACTUAL BACKGROUND

A. Secured Maritime Liens.

6. On November 15, 2017, the Debtor filed a *Notice of December 5, 2017 Bar Date and Related Procedures for Parties Asserting Liens on the Derrick Barges William Kallop or Swing Thompson* [ECF No. 120]. The Notice required parties asserting claims secured by the Debtor's Barges to file proofs of claim by December 5, 2017.

7. The Court held an estimation hearing on December 11, 2017 to estimate the amount of each party's maritime lien on the Barges. The majority of claims were estimated at that hearing, though the claims of DeepCor Marine and Mickel Hahn were subject to separate valuation hearings on December 28, 2017 and January 12, 2018, respectively.

8. The outcome of these estimation hearings is detailed in the Credit Bidding Estimation Order [ECF No. 347], which is attached hereto as **Exhibit A**.

9. After the Barges were sold in early 2018, the Debtor paid the amounts listed in the "Allowed Estimated Amount for Purpose of Credit Bidding" column on the Credit Bidding Estimation Order to each respective claimant.

10. In some cases, these payments were in full satisfaction of a creditor's claim. However, the Debtor's payments satisfied certain claims only part. Creditors whose claims were satisfied only in part have amounts remaining indicated in the "Unsecured Portion of Claim(s) Remaining" column of the Table.

B. Priority Claims.

11. Claimants Scott Hardy, Ed and Angie Moorman, Kerrel J. Positerry, and David and Whitney Scott filed priority unsecured claims (collectively, the "Priority Claims") against the Debtor. Pursuant to Article II.C of the Debtor's confirmed Plan, the Trustee was required to satisfy the Priority Claims within five business days of Effective Date of the Plan.

12. The Trustee satisfied the Priority Claims pursuant to Article II.C.

C. DeepCor.

13. The Debtor and DeepCor Marine entered into a settlement reducing their claim to a secured claim in the amount of \$1,280,000.00. *See* ECF No. 502. Further, upon the Debtor's payment of \$1,280,000 to DeepCor, DeepCor's unsecured claims were deemed satisfied in full.

BASIS FOR RELIEF

14. Section 502 of the Bankruptcy Code provides, in pertinent part, as follows: “[a] claim or interest, proof of which is filed under section 501 of [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502.

15. As set forth in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes *prima facie* evidence of the validity and the amount of the claim under section 502(a) of the Bankruptcy Code. *See, e.g., In re Jack Kline Co., Inc.*, 440 B.R. 712, 742 (Bankr. S.D. Tex. 2010). A proof of claim must “set forth the facts necessary to support the claim.” *In re Chain*, 255 B.R. 278, 280 (Bankr. D. Conn. 2000) (citing 9, Resnick & Sommer eds., *Collier on Bankruptcy* ¶ 3001.09[1] at 3001-27 (15th ed. Rev. 2005)). If the proof of claim fails to set forth the necessary supporting facts, it is “not entitled to the presumption of *prima facie* validity, and the burdens of going forward and of proving its claims by a preponderance of the evidence are on the [claimant].” *In the Matter of Marino*, 90 B.R. 25, 28 (Bankr. D. Conn. 1988); *see also In re Svendson*, 34 B.R. 341, 342 (Bankr. D.R.I. 1983) (stating proofs of claim failed to “set forth all the necessary facts to establish the claim[s].”).

16. A proof of claim also loses the presumption of *prima facie* validity under Bankruptcy Rule 3001(f) if an objecting party refutes at least one of the allegations that are essential to the claim's legal sufficiency. *See In re Fidelity Holding Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988). Once such an allegation is refuted, the burden reverts to the claimant to prove the validity of its claim by a preponderance of the evidence. *Id.* Despite this shifting burden during the claim objection process,

“the ultimate burden of proof always lies with the claimant.” *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep’t of Rev.*, 530 U.S. 15 (2000)).

17. Here, the attached affidavit of David Weinoffer, former Chief Restructuring Officer of the Debtor and now the Trustee, establishes that the Debtor and/or the Trustee made payments on account of secured and Priority Claims as reflected in the Table.

18. Accordingly, the Trustee seeks entry of an order expunging the claims that have been satisfied in full. For those claims not satisfied in full, the Trustee seeks an order allowing those claims on an unsecured basis in the amounts listed in the Table.

WHEREFORE, for the reasons stated above and in the Declaration of David Weinoffer, the Liquidating Trustee respectfully requests entry of an order, substantially in the form attached hereto, granting the relief requested herein and granting such other relief as is just and proper.

Dated: June 3, 2019

Respectfully submitted,

DIAMOND McCARTHY LLP

/s/ Michael D. Fritz
Charles M. Rubio
TBA No. 24083768
crubio@diamondmccarthy.com
Michael D. Fritz
TBA No. 24083029
mfritz@diamondmccarthy.com
909 Fannin, Suite 3700
Houston, TX 77010
Telephone: (713) 333-5100
Facsimile: (713) 333-5199

*Counsel to David Weinoffer, Liquidating Trustee of
the Offshore Specialty Fabricators Liquidating Trust*

CERTIFICATE OF SERVICE

I certify that on June 3, 2019, I caused a true and correct copy of the foregoing Objection to be served on all parties registered to receive electronic notice through the Court's CM/ECF system and by United States Mail, postage prepaid, to the claimant whose claim is subject to the Objection as listed on the Service List attached hereto.

/s/ Michael D. Fritz

Smith Marine Towing Co.
c/o Norman C. Sullivan, Jr.
400 Poydras St., 30th Floor
New Orleans, LA 70130

Demex International
c/o Kenneth P. Green
Snow Spence Green LLP
2929 Allen Parkway, Ste. 2800
Houston, TX 77019

BNA Marine Services
P O Box 150
Morgan City, LA 70381

Bayou Black Electric Supply
5086 Hwy. 311
Houma, LA 70360

Bayou Black Electric Supply
c/o Lawrence R. DeMarcay, III
1100 Poydras Street, 36th Floor
New Orleans, LA 70163

Spartan Acquisition Corp.
P O Box 3562
Houma, LA 70361

Spartan Acquisition Corp.
c/o Lawrence R. DeMarcay, III
1100 Poydras Street, 36th Floor
New Orleans, LA 70163

Morgan City Rentals
P O Box 2946
Morgan City, LA 70381

Morgan City Rentals
c/o Lawrence R. DeMarcay, III
1100 Poydras Street, 36th Floor
New Orleans, LA 70163

Delta Rigging & Tools
125 McCarty Dr.
Houston, TX 77029

Delta Rigging & Tools
c/o Lawrence R. DeMarcay, III
1100 Poydras Street, 36th Floor
New Orleans, LA 70163

Crossmar Inc.
Attn: Jeff McGuire
1962 S. Van Avenue
Houma, LA 70363

Morgan City Supply
Attn: William A. Stark
275 Gabasse
Houma, LA 70360

Work Boat Electrical Svc.
5413 Hwy. 311
Houma, LA 70360

Work Boat Electrical Svc.
c/o Lawrence R. Plunkett, Jr.
3850 N. Causeway Blvd., Ste. 1000
Metairie, LA 70002

Encore Food Services
c/o Christopher H. Riviere
103 W. Third Street
Thibodaux, LA 70307

Alliance Special Ventures Fund
c/o David F. Waguespack
1100 Poydras Street, Ste. 3100
New Orleans, LA 70163

MARMAC LLC
P O Bo 917227
Dallas, TX 75391-9227

MARMAC LLC
c/o Andre J. Mouledoux
701 Poydras Street, Ste. 4250
New Orleans, LA 70139

Gator Rigging Inspection
c/o Christopher H. Riviere
103 W. Third St.
Thibodaux, LA 70307

Era Helicopters LLC
P O Box 6550
Lake Charles, LA 70606-6550

Era Helicopters LLC
c/o Stephen L. Williamson
201 St. Charles Ave., 40th Floor
New Orleans, LA 70170

Express Supply & Steel LLC
P O Box 5091
Houma, LA 70361-5091

Express Supply & Steel LLC
c/o Benjamin W. Kadden
601 Poydras Street, Ste. 2775
New Orleans, LA 70130

DeepCor Marine, Inc.
c/o Mark Joachim
1401 I Street, Ste. 800
Washington, DC 20005

Breaux Petroleum Products
237 N. Barrios St.
Lockport, LA 70374

Breaux Petroleum Products
c/o Lawrence Clifton Dickerson III
P O Box 241
Lockport, LA 70374

Conrad Shipyard
c/o Laura Ashley
201 St. Charles Ave., Ste. 5100
New Orleans, LA 70170

Fugro USA Marine
c/o Stephen L. Williamson
201 St. Charles Ave., 40th Floor
New Orleans, LA 70170

C&G Welding
P O Box 4177
Houma, LA 70361-4177

C&G Welding
c/o Rachel Lisotta Bradley
365 Canal Street, Ste. 2730
New Orleans, LA 70130

Oil States Skagit SMATCO
1180 Mulberry Rd.
Houma LA 70363

Oil States Skagit SMATCO
c/o David S. Bland
909 Poydras Street, Ste. 1860
New Orleans, LA 70112

DHD Offshore Services
7889 Hwy 182 E.
Morgan City, LA 70380

DHD Offshore Services
c/o Julie I. Faulk
P O Box 3089
Lafayette, LA 70502

Hercules Wire Rope & Sling Co.
P O Box 1769
Houma, LA 70361-1769

Hercules Wire Rope & Sling Co.
c/o Miles C. Thomas
601 Poydras St., Ste. 2775
New Orleans, LA 70130

Crosby Tugs LLC
P O Box 279
Golden Meadow, LA 70357

Scott Hardy
114 Egle St.
Morgan City, LA 70380

Industrial Welding Supply of Houma Ltd.
c/o Jedd S. Malish
201 St. Charles Ave., 45th Floor
New Orleans, LA 70170

Ed and Angie Moorman
204 Anslem Dr.
Youngsville, LA 70592

Viral Investment LLC
7889 Hwy 182E
Morgan City, LA 70380

Versabar Inc.
11349 FM 529
Houton, TX 77041

Kerrel J. Positerry
110 Ouiski Bayou Dr.
Houma, LA 70360

Whitney M. Scott
12211 McFarland Rd.
Churchula, AL 36521-3309